

**TITLE 11A**

**SEMINOLE NATION EMPLOYMENT RIGHTS ACT**

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## **SEMINOLE NATION EMPLOYMENT RIGHTS ACT**

### **Section 101. Title.**

This law shall be entitled the "Seminole Nation Employment Rights Act."

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

### **Section 102. Findings and Purpose.**

(a) Findings.

The General Council of the Seminole Nation hereby makes the following findings regarding the need for and purpose of the Seminole Nation Employment Rights Act:

(1) Jobs, subcontracts and contracts in the private sector within the territorial jurisdiction of the Seminole Nation are important resources for Indian people and Indians must use their rights to obtain their share of such opportunities as they become available;

(2) Indians have unique and special employment, subcontract and contract rights, including Congressional recognition of the power of Indian tribes to impose preferential requirements on the grounds that the exemption is consistent with the federal government's policy of encouraging Indian employment and with the special legal position of Indians;

(3) Indians are entitled to the protection of federal laws concerning prevention of employment discrimination, and the Seminole Nation can and should play a role in the enforcement of such laws;

(4) The Seminole Nation has the inherent sovereign power to pass laws to implement and enforce special employment rights on behalf of Indians; and

(5) The General Council of the Seminole Nation recognizes that it is important to establish an employment rights program and office in order to use the aforementioned laws and powers to increase employment of Indian workers and businesses and to eradicate discrimination against Indians.

(b) Purpose.

(1) The purpose of the Seminole Nation Employment Rights Act is to assist in and require the fair employment of Indians, to create employment and training opportunities for members of the Seminole Nation and other Indians, and to prevent discrimination against Indians in the employment practices of employers who are doing business within the territorial jurisdiction of the Seminole Nation of Oklahoma as defined by § 303 (v) herein.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 103. Definitions.**

Terms contained in the Seminole Nation Employment Rights Act shall be defined as follows:

(a) "Commerce" shall include all trade, traffic, distribution, communication, transportation, provision of services, manufacturing, production, agricultural production, building, maintenance, construction, banking, mining and energy production.

(b) "Commission" shall mean the Seminole Nation Employment Rights Commission.

(c) "Contractor" shall mean any person, company or other entity engaged in work with the Seminole Nation, its entities, agencies, or wholly-owned corporations, limited liability companies, partnerships, and businesses.

(d) "Director" means the Director of the Seminole Nation Employment Rights Office.

(e) "EEOC" shall mean the Equal Employment Opportunity Commission of the United States.

(f) "Employee" shall mean any employee, any applicant for employment, and any former employee whose employment has ceased as a consequence of or in connection with a current labor dispute or because of an unfair labor practice. The term "employee" shall not include any individual employed in the domestic services of any family or person at his home, or any individual employed by any other person who is not an employer as herein defined.

(g) "Employer" shall mean any person, company, contractor, subcontractor or other entity located in or on Seminole Nation Territorial Jurisdiction or engaged in work with the Seminole Nation, its entities, agencies, or wholly-owned corporations, limited liability companies, partnerships, and businesses employing two or more persons. For the Purpose of this Act, the term "employer" includes Seminole Nation, its entities, agencies, or wholly-owned corporations, limited liability companies, partnerships, and businesses, federal, state and county government agencies and includes contractors, and subcontractors of all other agencies.

(h) "Employment Rights Office" shall mean the Seminole Nation Employment Rights Office.

(i) "Entity" means any person, partnership, corporation, joint venture, government, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and encompassing as possible to ensure applicability of Title 11, Chapter 4 herein to all employment and contract activities within the Nation's Territorial jurisdiction, and the term shall be so interpreted by the Commission and the Courts.

(j) "Government Commercial Enterprise" means any activity by the Seminole Nation or of the state government that is not a traditional government function as defined by the Internal

Revenue Service.

(k) "Immediate family" means brother, sister, son, daughter, mother, father, husband, wife, step-brother, step-sister, half-brother, half-sister, or brother, sister, son, daughter, mother or father by adoption.

(l) "Indian" means any member of a federally recognized Indian tribe.

(m) "Indian owned firm or entity" means any commercial, industrial or other business which is owned by an Indian or Indians, or other Indian owned firm or entity, provided that such Indian ownership constitutes not less than fifty-one percent (51%) of the enterprise.

(n) "Indian resident on land within the territorial jurisdiction of the Seminole Nation" or "resident Indian" shall mean any Indian person who has resided on lands within the territorial jurisdiction of the Seminole Nation for not less than sixty (60) days preceding the initial date any contract for work on land within the territorial jurisdiction of the Nation is let or the initial date any employment offers are made by an employer permanently located on lands within the territorial jurisdiction of the Seminole Nation.

(o) "Local Indian" means any member of a federally-recognized tribe who resides within the territorial jurisdiction of the Seminole Nation.

(p) "Nation" means the Seminole Nation of Oklahoma.

(q) "Nation's District Court" means the District Court as defined in Title 5 , §103(f) of the Code of Laws of the Seminole Nation.

(r) "Nation's Police" means the Police as defined in Title 7, § 101(d) of the Code of Laws of the Seminole Nation.

(s) "Non-resident Indian" means any Indian who is not a resident Indian as defined by § 303(n) herein.

(t) "SNERO" means the Seminole Nation Employment Rights Office.

(u) "Territorial jurisdiction". The territorial jurisdiction of the Seminole Nation of Oklahoma shall be within the geographical boundaries established by the Treaty of March 21, 1866, 14 Stat. 755, entered into by the Seminole Nation of Oklahoma and the United States of America, including but not limited to the following property located within said boundaries: property held in trust by the United States of America on behalf of the Seminole Nation of Oklahoma; property owned in fee by the Seminole Nation of Oklahoma; restricted and trust allotments; and dependent Indian communities. The territorial jurisdiction of the Seminole Nation of Oklahoma shall also extend to all property located outside said boundaries, owned in fee by the Seminole Nation of Oklahoma or held in trust by the United States on behalf of the Seminole Nation of Oklahoma. All of said property subject to the territorial jurisdiction of the Seminole Nation of Oklahoma, both real and personal, shall be exempt from federal and state taxation, when not inconsistent with federal law.

(v) "Union" or "labor union" means any organization of any kind or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

[HISTORY: Law No. 93-05, January 23, 1993;  
Amended Ordinance Number 12-20, October 27, 2012;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 104. Establishment of Employment Rights Office.**

The Seminole Nation Employment Rights Office (SNERO) is hereby established, and full supervisory authority over implementation of the Seminole Nation Employment Right Act shall vest in said office. The Employment Rights Office shall be administered by a Director in conjunction with administration of the JTPA Office of the Nation, and shall report directly to the Executive Office of the Nation.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 105. Director; Authority.**

The Director of the Employment Rights office shall have the authority to:

- (a) Hire staff;
- (b) Expend funds appropriated by the General Council;
- (c) Obtain and expend funding from federal, state or other sources to carry out the purpose of the office subject to approval of the General Council;
- (d) Administer the policies, powers and duties prescribed in the Seminole Nation Employment Right Act;
- (e) Require employers to submit reports;
- (f) Establish programs subject to the General Council's approval, in conjunction with federal and tribal offices, to provide counseling and support to Indian workers, in order to assist them in retaining employment. Employers shall be required to participate in and to cooperate with such support and counseling programs.
- (g) Enforce the provisions of the Seminole Nation Employment Rights Act and enforce regulations adopted pursuant to §408 herein by issuance of cease and desist orders, imposition of fines and posting notices, provided such actions are not inconsistent with 25 USC § 1301, et.seq.; and
- (h) Take other actions as are necessary for the fair and vigorous implementation of

the Seminole Nation Employment Rights Act.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 106. Seminole Nation Employment Rights Commission.**

(a) Establishment of Seminole Nation Employment Rights Commission.

The Seminole Nation Employment Rights Commission is hereby established.

(b) Members.

The Commissions shall consist of a three (3) member administrative review board who shall be appointed by the Principal Chief subject to confirmation by the General Council. When the first Commissioners are appointed, one shall be appointed to serve a term ending on December 31, 1993; one shall be appointed to serve a term ending on December 31, 1994, and one shall be appointed to serve a term ending on December 31, 1995. Thereafter, each term shall be for a period of three years, commencing on January 1 of the year following the December 31 expiration date of said term. The Principal Chief shall have the authority to remove a Commissioner for cause prior to expiration of the Commissioner's term.

(c) Qualifications.

Any person who is eligible to serve as a Commissioner of the Seminole Nation Employment Rights Office.

(d) Duties.

- (1) The Commission shall have the following powers and duties:
- (2) Develop and promulgate all regulations authorized to be implemented pursuant to the provisions of §408 herein;
- (3) Provide oversight of the Seminole Nation Employment Rights Office;
- (4) Hold hearings for the purpose of the subpoena witnesses and documents and the taking of evidence;
- (5) Review and issue rulings and orders pertaining to appeals of decisions of the Seminole Nation Employment Rights Office by aggrieved parties;
- (6) Enter into agreements with unions to ensure union compliance with Chapter 4 herein.
- (7) Petition the Nation's District Court for orders as necessary and appropriate to enforce the decisions of the Commission or Director and any sanctions imposed by them.

(e) Quorum.

A majority of the Commission shall constitute a quorum to transact business. When a vacancy occurs in the Commission, the remaining members may exercise all the powers of the Commission until the vacancy is filled.

(f) Refusal of Commission Members.

(1) No member of the Commission shall participate in any action or decision by the Commission directly involving himself, or a member of his immediate family, or any person, business or other entity of which he or a member immediate family is an employee, or in which he or a member of his immediate family has a substantial ownership interest, or with which he or a member of his immediate family has a substantial contractual relationship.

(2) Nothing in this section shall preclude a Commissioner from participating in any action or decision by the Commission which generally affects a class of persons, regardless of whether the Commissioner or a member of his immediate family is a member of the affected class or affects the nation, a tribal enterprise, or a person or entity in a contractual relationship with the Nation or a tribal enterprise, regardless of whether the Commissioner is a member of the Nation.

(3) A Commissioner may voluntarily recuse himself and decline to participate in any action or decision by the Commission when the Commissioner, in his discretion, believes that he cannot act fairly or without bias or that there would be an appearance that he could not act fairly or without bias.

(g) Mileage and Per Diem.

Members of the Commission shall be entitled to receive, upon presentation of proper vouchers, such mileage and per diem payments as are in effect for members of other Commissions of the Nation.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 107. Regulations; Promulgation.**

(a) The Commission, assisted by the Employment Office, shall promulgate any rules and regulations necessary for implementation of the Seminole Nation Employment Rights Act, and consistent with the provisions of said act and other applicable laws of the Nation, provided that said rules and regulations are approved by the Seminole Nation Employment Rights Commission. The Commission shall insure that all rules, regulations, and guidelines that are issued provide notice to the public and further that all rules, regulations and guidelines accord affected parties' rights to due process of law.

(b) Except in cases where the Commission has determined that an emergency situation exists, the Commission shall follow the following minimal procedures in issuing all rules, regulations and guidelines:

(1) Notice of Proposed Regulations.

All proposed rules, regulations, and guidelines shall be sent to the General Council, shall be posted in at least two public places within the territorial jurisdiction of the Seminole Nation, and shall be maintained in the Seminole Nation Employment Rights Office and made available for public inspection for not less than twenty (20) days from the date notice was mailed to the General Council.

(2) Comment Period.

The Seminole Nation Employment Rights Office shall accept comment from any interested parties during the twenty (20) day notice period required in §408(a) herein.

(3) Finalization.

The Seminole Nation Employment Rights Commission shall prepare and approve final rules, regulations and guidelines following the comment period, after reviewing any comments made. The preamble to such final rules, regulations and guidelines shall state the major issues raised by the comments, if any.

(4) Effective Date of Regulations.

Following Commission approval of the final rules, regulations and guidelines, said rules, regulations and guidelines shall be posted in a public place within the territorial jurisdiction of the Seminole Nation, and shall be placed in a file in the Seminole Nation Employment Rights Office, which shall be open to public inspection.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 108. Indian Preference in Employment.**

All covered employers, for all employment occurring within the territorial jurisdiction of the Seminole Nation, are hereby required to give "Indian preference" to qualified, with the first preference to local Indians, in all hiring, promotion, training, pay, benefits, and other terms and conditions of employment. Employers shall comply with all rules, regulations and guidelines applicable to Indian preference and approved by the Seminole Nation Employment Rights Commission. The Indian preference requirements contained herein shall not apply to any direct employment by the Nation or by the federal, state or other governments or their subdivisions. It shall apply to all contractors or grantees of such governments and to all commercial enterprises operated by such governments.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]



**Section 109. Indian Preference in Contracting.**

All entities awarding contracts or subcontracts for supplies, services, labor and materials in an amount of \$5,000 or more where the majority of the work on the contract or subcontract will occur within the territorial jurisdiction of the Nation, shall give preference in contracting and subcontracting to qualified entities that are certified by the Commission as fifty-one percent (51%) or more Indian-owned and controlled, with a first preference to qualified entities that are fifty-one percent (51%) or more owned and controlled by local Indians. The requirements of §410 herein shall apply to all subcontractors awarded by a tribal, federal or state direct contractor or grantee whether or not the prime contract was subject to these requirements. All covered entities shall comply with the rules, regulations, guidelines and orders of the Commission which set forth the specific obligation of such entities in regard to Indian preference in contracting and subcontracting. The Commission shall establish a system for certifying firms as Indian preference and local Indian preference eligible.

[HISTORY: Law No. 93-05, January 23, 1993.  
Amended Ordinance Number 12-20, October 27, 2012;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 110. Indian Preference; Hiring Regulations.**

The Commission shall promulgate regulations which impose numerical hiring goals and timetables that specify the minimum number of Indians an employer must hire, by craft or skill level or which establishes percentage hiring goals by craft or skill level for specified employment fields.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 111. Training.**

Employers subject to the provisions of the Seminole Nation Employment Rights Act herein shall establish or participate in such training program as the Commission deems necessary to increase the pool of Indians eligible for employment within or outside the territorial jurisdiction of the Seminole Nation.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 112. Hiring Hall.**

The Seminole Nation Employment Rights Office is authorized to establish in conjunction with the Nation's tribal employment and training program a hiring hall in or skills bank, and impose a requirement that no covered employer may hire a non-Indian until the Nation's hiring hall or bank has certified that no qualified Indian is available to fill the vacancy, with a first preference

in referral to local Indians.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 113. Job Qualifications.**

No employer subject to the provisions of the Seminole Nation Employment Rights Act shall use job qualification criteria or other personnel requirements that serve as barriers to Indian employment as a reason for non-compliance with Indian preference, unless the employer can demonstrate that such criteria or requirements are required by business necessity.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 114. Religious Freedom.**

Employers shall make a reasonable accommodation to the religious beliefs of Indian workers in accordance with guidelines to be developed by the Seminole Nation Employment Rights Office and approved by the Commission.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 115. Compliance of Act by Unions.**

Every union with a collective bargaining agreement with an employer must file a written agreement stating that the union will comply with Title 11, §401 et seq. of the Code of Laws of the Seminole Nation and with the rules, regulations and orders of the Commission. Until such agreement is filed with the Seminole Nation Employment Rights Office and the Commission, the employer may not commence work within the territorial jurisdiction of the Seminole Nation of Oklahoma. The Commission will provide a model union agreement for use by all unions who have a collective bargaining agreement with any employer. Every union agreement with an employer or filed with the Commission must provide:

(a) **Indian Preference.**

(1) The union will give preference to Indians in job referrals regardless of which union referral list they are on.

(b) **Cooperation with the Commission.**

(1) The union will cooperate with the Commission in all respects and assist in the compliance with, and enforcement of, the Seminole Nation Employment Rights Act and related regulations and agreements.

(c) Registration.

(1) The union will establish a mechanism allowing Indians to register for job referral lists by telephone or mail.

(d) Training Programs.

(1) The union will establish a journeyman upgrade and advanced apprenticeship program.

(e) Temporary Work Permits

(1) The union will grant temporary work permits to Indians who do not wish to join the union.

(f) Recognition of Unions.

(1) Nothing herein or any activity by the Commission authorized hereby shall constitute official tribal recognition of any union or tribal endorsement of any union activities within the Seminole Nation of Oklahoma.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 116. Employment Rights Fee.**

An Employment Rights Fee is necessary to raise revenue for the operation of the Seminole Nation Employment Rights Office, and is hereby authorized to be imposed by the Employment Rights Office as follows:

(a) Every covered employer or entity with a construction contract in the sum of \$75,000 or more shall pay a fee of 2% of the total amount of the contract; however, Seminole Nation housing Rehabilitation contracts, Housing Improvement Program contract and Seminole Nation Maintenance contracts shall be exempt from this fee. Such fee shall be paid by the employer or entity prior to commencing work in the Nation's territorial jurisdiction. However, where good cause is shown, the Director may authorize a construction contractor to pay said fee in installments.

(b) Every covered employer or entity, other than construction contractors, with five (5) or more employees working within the Nation's territorial jurisdiction with gross sales of \$1,000 or more shall pay a quarterly fee of 2% of his employees quarterly payroll which shall be paid within 30 days after the end of each quarter.

(c) The fee shall be collected by the Seminole Nation Employment Rights Commission. The Commission shall provide for an efficient and orderly fee collection process.

[HISTORY: Law No. 93-05, January 23, 1993;  
Amended by Ordinance 2004-13, March 6, 2004.  
Amended Ordinance Number 12-20, October 27, 2012  
Amended Ordinance Number 2013-10; June 2, 2013;  
Recodified as Title 11A by TO-2015-07, July 25, 2015]

### **Section 117. Reporting and On-Site Inspections.**

(a) Employers shall submit reports, and other information requested by the Commission.

(b) The Commission and its representative shall have the right to make on-site inspections during regular working hours in order to monitor any employer's compliance with the Employment Rights Act and rules, regulations and orders of the Commission.

(c) The Commission shall have the right to inspect and copy all relevant records of any employer, or any signatory union or subcontractor and shall have a right to speak to workers and conduct investigations on job sites.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

### **Section 118. Complaints.**

(a) Parties Entitled to File Complaint.

(1) The following shall have a right to file a complaint:

(i) **Director.** If the Director has cause to believe that an employer, contractor, subcontractor, or union has failed to comply with the Seminole Nation Employment Rights Act or any rules, regulations or orders of the Commission, it may file a complaint and notify such party of the alleged violations.

(ii) **Individual Indian.** If any Indian believes that an employer has failed to comply with the Seminole Nation Employment Rights Act or rules, regulations or orders of the Commission, or believes he has been discriminated against by an employer because he is an Indian, he may file a complaint with the Director specifying the alleged violation. If any employer fires, lays off, or penalizes in any manner, any Indian employee for utilizing the individual complaint procedure, or any other right provided herein, the employer shall be subject to the penalties provided in §421 herein.

(iii) **Employer or Union Complaint Procedure.** If an employer or union believes that any provision of the Seminole Nation Employment Rights Act or any rules, regulation or order of the Commission is illegal or erroneous, it may file a complaint with the Commission specifying the alleged illegality or error.

(d) Contents of Complaint.

(a) The complaint shall be in writing and shall provide such information as is necessary to enable the Director to carry out an investigation.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 119. Investigations.**

(a) Investigation Deadline.

(1) The Director shall within thirty (30) days of the date on which a complaint is filed complete an investigation of every complaint unless the Director requests and is granted an extension by the Commission, which shall be for no more than thirty (3) days.

(b) Investigatory Authority of Director.

(1) The Director or his delegate may enter, during business hours, the place of business or employment of any employer for the purpose of such investigations, and may require the covered employer or entity to submit such reports as he deems necessary to monitor compliance with the requirements of Title 11, § 3 herein and any rule or order hereunder. When requesting any reports or other information from a covered employer, the Director shall request that the covered employer identify all material which contains trade secrets or privileged or confidential commercial, financial, or employment information. Any material so identified shall be kept confidential by the Director unless, on the request of the Director or other interested party, the Commission determines that the material does not contain confidential information, the release of which would cause unnecessary or excessive business or financial injury or would invade individual privacy. If upon investigation, the Director has reason to believe a violation has occurred, he shall proceed pursuant to the provisions of §423 herein.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 120. Investigatory Powers of Director and Commission.**

(a) Power to Require Testimony and Production of Records.

(1) For the purpose of investigations or hearings which, in the opinion of the Director or the Commission, are necessary and proper for the enforcement of Title 11, Chapter 4 herein, a Commissioner, the Director, or any field compliance officer designated by the Director may administer oaths or affirmations, subpoena witnesses, take evidence, and require, by citation, the production of books, papers, contracts, agreements or other documents, records or information which the Director or the Commission deems relevant or material to the inquiry.

(b) Confidentiality of Records.

(1) Any state or federal tax records, trade secrets, or privileged or confidential commercial, financial, or employment information subpoenaed pursuant to this section or used in a compliance hearing or subsequent appeal to the Nation's District Court, shall be confidential records of the Commission or the said Court, shall not be opened to public inspection, and shall be used only by the Director, the Commission, parties to a compliance hearing or subsequent appeal to the Nation's District Court, and the District Court.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 121. Enforcement**

(a) Notification of Violation.

(1) When, after conducting an investigation, initiated by a complaint pursuant to §420 herein, the Director has reason to believe a violation of Title 11, Chapter 4 herein or regulations issued pursuant to it has occurred, the Director shall notify the covered employer or entity in writing, specifying the alleged violations. The Director may withhold the name(s) of the complaining party if he has reason to believe such party shall be subject to retaliation. The Director shall seek to achieve an informal settlement of the alleged violation. If he is unable to do so, he shall issue a formal notice of non-compliance, which shall also advise the covered employer or entity of his right to request a hearing.

(b) Formal Notice of Non-compliance.

(1) The formal notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. It shall provide the employer or entity with a reasonable time to comply, which in no event shall be less than five days from the date of receipt of such notice, unless the Director has reason to believe irreparable harm will occur during that period, in which case the Director may require that compliance occur within fewer than five days.

(c) Request for Hearing.

(1) If the party fails or refuses to comply, the party may request a hearing before the Commission which shall be held no sooner than five days and no later than thirty (30) days after the date for compliance set forth in the Director's notification to the party charged of a violation, unless an expedited hearing is deemed necessary by the Commission to avoid irreparable harm. If a party fails or refuses to comply and does not request a hearing, the Commission may proceed pursuant to §423(f).

(d) Bond During Pendency of Proceedings.

(1) If the party requests a hearing pursuant to §423(c) herein, and the Director

has good cause to believe that there is a danger that the party requesting the hearing will remove itself or its property from the jurisdiction of the Nation prior to the hearing, he may, in his discretion, require the party to post a bond with the Commission in an amount sufficient to cover possible monetary damages that may be assessed against the party at the hearing. If the party fails or refuses to post said bond, the Commission may proceed pursuant to §423(f). The Director may also petition the Nation's District Court for such interim and injunctive relief as is appropriate to protect the rights of the Commission and other parties during the pendency of the complaint and hearing proceedings.

(e) Conduct of Hearings.

(1) Any hearing held pursuant to Section 423 herein shall be conducted by the Commission. Hearings shall be governed by the following rules or procedure:

(2) All parties may present testimony of witnesses and other evidence and be represented by counsel at their expense.

(3) The Commission may have the advice and assistance at the hearing of counsel provided by the Nation.

(4) The Chairman of the Commission or the vice-Chairman shall preside and the Commission shall proceed to ascertain the facts in a reasonable and orderly fashion.

(5) The Commission may consider any evidence which it deems relevant to the hearing, and conduct of the hearing shall be governed by the rules of practice and procedure which may be adopted by the Commission.

(6) The Commission shall not be bound by technical rules of evidence in the conduct of hearings, and no informality in any proceeding, as in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission.

(7) The hearing may be adjourned, postponed and continued at the discretion of the Commission.

(8) At the final close of the hearings, the Commission may take immediate action or take the matter under advisement.

(9) In any hearing before the Commission where the issue is compliance by an employer with any of the requirements and provisions of the Seminole Nation Employment Rights Act, the burden of proof shall be on the employer, rather than on the employee or other complainant, to show said compliance.

(10) The Seminole Nation Employment Rights Office shall notify all parties thirty (30) days after the last hearing of its decision in the matter.

(11) No stenographic record of the proceedings, and testimony shall be required except upon arrangement by, and at the cost of the party charged.

(f) Remedies Upon Commission Determination of Violation.

(1) If, after the hearing, the Commission determines that the alleged violation occurred and that the party charged has no adequate defense in law or fact, or if no hearing is requested, the Commission may:

(2) Deny such party the right to commence business within the territorial jurisdiction of the Seminole Nation;

(3) Suspend such party's operations within the territorial jurisdiction of the Seminole Nation;

(4) Terminate such party's operation within the territorial jurisdiction of the Seminole Nation;

(5) Deny the right of such party to conduct any further business within the territorial jurisdiction of the Seminole Nation;

(6) Impose a civil fine on such party in an amount not to exceed \$500 for each violation, provided that each day during which a violation exists shall constitute a separate violation;

(7) Order such party to make payment of back pay to any aggrieved Indian;

(8) Order such party to dismiss any employees hired in violation of the Nation's employment rights requirements;

(9) Require employment promotion and training of Indians injured by the violation;

(10) Order the party to take such other action as is necessary to ensure compliance with Title 11, Chapter 4 of the Code of Laws of the Seminole Nation or to remedy any harm caused by a violation of said chapter, consistent with the requirements of the Indian Civil Rights Act, 25 U.S.C. 1301 et seq.

(g) Commission Decision; Protection.

(1) The Commission's decision shall be in writing, shall be served on the charged party by registered mail or in person no later than thirty days after the close of the hearing provided in §423(e). Where the party's failure to comply immediately with the Commission's orders may cause irreparable harm, the Commission may move the Nation's District Court, and the District Court shall grant, such injunctive relief as necessary to preserve the rights of the beneficiaries of Title 11, Chapter 4 herein, pending the party's appeal or expiration of the time for appeal.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]



## **Section 122. Appeals.**

### (a) Manner of Taking Appeal.

An appeal to the Nation's District Court may be taken from any final order of the Commission by any party adversely affected thereby. Said appeal must be filed with the Court no later than twenty (20) days after the party receives a copy of the Commission's decision. The appeal shall be taken by serving written notice of appeal with the Nation's District Court, with a copy to the Director, within twenty (20) days after the date of the entry of the order. The notice of appeal shall set forth the order from which appeal is taken; specify the grounds upon which reversal or modification of the order is sought; and be signed by the appellant.

### (a) Stay of Commission Order Pending Appeal; Bond.

The order of the Commission shall be stayed pending the determination of the Nation's District Court, provided that such stay may be conditioned upon the posting of a bond if the Director petitions for a bond and the Court, for good cause shown, orders the appealing party to post a bond sufficient to cover monetary damages that the Commission assessed against the party or to assure the party's compliance with other sanctions or remedial actions imposed by the Commission's order if that order is upheld by the court.

### (b) Standard of Review.

The Nation's District Court shall uphold the decision of the Commission unless it is demonstrated that the decision of the Commission is arbitrary, capricious or in excess of the authority of the Commission.

### (c) Reversal on Appeal.

If the order of the Commission is reversed or modified, the Court shall by its mandate specifically direct the Commission as to further action in the matter, including making and entering any order or orders in connection therewith and the limitations, or conditions to be contained therein.

### (d) Enforcement of Commission Order.

If the Commission's order is upheld on appeal, or if no appeal is sought within twenty (20) days from the date of the party's receipt of the Commission's order, the Commission shall petition the Court and the Court shall grant such orders as are necessary and appropriate to enforce the orders of the Commission and the sanctions imposed by it.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

## **Section 123. Confiscation and Sale.**

(a) If, twenty-one (21) days after a decision by the Commission pursuant to §423(g), no appeal has been filed, or thirty (30) days after a decision by the Court on an appeal from a

decision by the Commission pursuant to §424 a party has failed to pay monetary damages imposed on it or otherwise complied with an order of the Commission or the Court, the Commission may petition the Court to order the Nation's Police to confiscate, and hold for sale, such property of the party as is necessary to ensure payment of said monetary or to otherwise achieve compliance. Said petition shall be accompanied by a list of property belonging to the party which the Commission has reason to believe is within the jurisdiction of the Nation's District Court, the value of which approximates the amount of monetary damages at issue.

(b) If the Court finds the petition to be valid, it shall order the Nation's Police to confiscate and hold said property or as much as is available. The Nation's Police shall deliver in person or by certified mail, a notice to the party informing it of the confiscation and of its right to redeem said property by coming into compliance with the order outstanding against it. If thirty (30) days after confiscation the party has not come into compliance, the Court shall order the police to sell said property and use the proceeds to pay any outstanding monetary damages imposed by the Commission and all costs incurred by the Court and police in the confiscation and sale. Any proceeds remaining shall be returned to the party.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

#### **Section 124. Orders to Police.**

The Nation's Police are hereby expressly authorized and directed to enforce such cease and desist or related orders as may from time to time be properly issued by the Commission and the Director. Such orders do not require a judicial decree or order to render them enforceable. The police shall not be civilly liable for enforcing such orders so long as the order is signed by the Director and the Commission. The Nation's Police shall not enforce a removal order of the Director unless it is accompanied by a judicial decree by the Nation's District Court.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

#### **Section 125. Publication of Law.**

(a) The Commission shall notify all covered employers of the Seminole Nation Employment Rights Act and their obligation to comply. All bid announcements issued by any tribal, federal, state or other private or public entity shall contain a statement that the successful bidder will be obligated to comply with the Seminole Nation Employment Rights Act and all rules, regulations and orders of the Commission.

(b) All tribal agencies responsible for issuing business permits for activities within the territorial jurisdiction of the Seminole Nation of Oklahoma or otherwise engaged in activities involving contact with prospective employers within the Seminole Nation of Oklahoma shall be responsible for advising such prospective employers of their obligations under the Seminole Nation Employment Rights Act and the rules, regulations and orders of the Commission.

(c) The Seminole Nation Employment Rights Office shall send a copy of the

Seminole Nation Employment Rights Act to every employer doing business within the territorial jurisdiction of the Seminole Nation of Oklahoma.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 126. Compliance Plan.**

As of the effective date of the Seminole Nation Employment Rights Act, no new employer may do business with the Seminole Nation of Oklahoma until it has consulted with the Seminole Nation Employment Rights Office for meeting its obligations under this law.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 127. Applicability**

The Seminole Nation Employment Rights Act shall be binding on all covered employers whether or not they have previously operated on the lands within the territorial jurisdiction of the Seminole Nation and whether or not they are doing so at the time of the implementation of the Seminole Nation Employment Rights Act.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 128. Severability.**

If any portion of the Seminole Nation Employment Rights Act shall be ruled invalid by a court of competent jurisdiction, that portion shall cease to be operative, but the remainder of the Act shall continue in full force and effect.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]

**Section 129. Effective Date.**

The Seminole Nation Tribal Employment Rights Act shall become effective from the date of its approval by the General Council of the Seminole Nation.

[HISTORY: Law No. 93-05, January 23, 1993;  
Recodified in Title 11A by TO-2015-07, July 25, 2015]